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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,991	08/17/2001	Michael D. Dixon	07895.0020-01000	2248
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PERKINS COLE LLP/MSFT P. O. BOX 1247 SEATTLE, WA 98111-1247			EXAMINER LE, DIEU MINH T	
			ART UNIT 2114	PAPER NUMBER
DATE MAILED: 10/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/930,991

Applicant(s)

DIXON, MICHAEL D.

Examiner

Dieu-Minh Le

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-32 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 062002-0817018082205.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. This Office Action is response to the communication filed on 08/22/2005 in application 09/930,991.

2. Claims 18-32 are presented for examination; claims 1-17 have been canceled.

**Double Patenting Rejections**

3. Claims 18-32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. patent 6,289,461. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed subject matter contains obvious modifications to previous claims 1-11 of U.S. patent 6,289,461.

As to claims 18, 26 and 31 these claims include limitations of: transmitting a request from a client to a server, establishing or maintaining an open communication link with the client, receiving a response; which already included in claims 1 and 10 of U.S. patent 6,289,461. It is well settled that the omission of an element and its function [i.e., firewall] is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136, USPQ 184 (CCPA 1963).

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Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969).

Therefore, omitting various elements from the previous claimed subject matter would have been obvious to one of ordinary skill in the art in this case since the remaining elements do in fact perform the same functions as before. Elimination/Changing of an element or its function will not serve as a basis for patentability.

4. The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

*Claim Rejections - 35 USC § 103*

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 18-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable Bakshi (US Patent 6,457,054) in view of Lee et al. (US Patent 5,774,479 hereafter referred to as Lee).

As per claim 18:

Bakshi substantially teaches the invention. Bakshi teaches:

- A method for communicating with a server (i.e., client/server communication/computer system) [abstract, fig. 4, col. 1, lines 45-57; col. 2, lines 15-30] comprising:

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- transmitting a request in accordance with a first format from a client to a server, said first format (i.e.,

TCP/IP protocols [col. 1, lines 45-57 and col. 2, lines 52-66])

request adapted to establish a communication session with said server [col. 9, lines 55-60];

- establishing a communication link with the server in accordance with a second format (i.e., HTTP protocols [col. 1, lines 45-57 and col. 2, lines 52-66]) [col. 10, lines 5-14].

Bakshi does not explicitly teach:

- the client does not receive a response to the first format request.

However, Bakshi does disclose capability of:

- A method for communications between two network devices (i.e., clients/servers communications) [fig. 4, col. 1, lines 14-17; col. 2, lines 15-30] comprising:

- clients/service request/response failure indication [col. 8, lines 25-38].

Lee explicitly teaches:

- A client-server networking system [abstract, col. 10, lines 4-6] comprising:

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- client/server requesting and responding via a network communication processes including sending, acknowledgment, confirming, lost confirming, time out, etc... [fig. 1-5, col. 1, lines 43-53; col. 10, line 8- 48].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention was made to first realizing Bakshi's clients/service request/response failure indication as being the client does not receive a response to the first format request as claimed by Applicant. This is because Bakshi explicitly deals with client/servers data requesting/responding via send/acknowledge features in supporting the data security communication between client-server (i.e., bi-directional data communication between client-server system), more specifically, in the supporting the data integrity and data protection via authorized access or network access control; second, by client/server requesting and responding via a network communication processes including sending, acknowledgment, confirming, lost confirming, time out, etc... as taught by Lee in conjunction with the method for communications between two network devices (i.e., clients/servers communications) as disclosed by Bakshi, the data requesting and responding including response not received by

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client capability within the client/server system can enhance its data streaming operation performance, more specifically to ensuring the request defectives thoroughly detected and corrected via reception and control capabilities (i.e., sending and acknowledgment tracking function).

This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so to provide the client-server system having a firewall capability with a mechanism to enhance the security of network access via the client's requesting and server's responding exchanges. That is by utilizing this approach, first, the entire networking system (e.g., client-server networking) can ensure the correct user access and prevent unauthorized users from breaking resource security by monitoring communication line, hacking system resources, stealing security devices, reverse engineering, or sharing encryption key via the authentication function;\_second, authentication devices can be highly controlled via key access control mechanism in supporting multi-requests/responds communication by client/server system; third, the client can easily communicate with the server in providing accurately data/message.

As per claim 19:



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Bakshi further explicitly teaches:

- maintaining a communication path with the server in accordance with the first format if the client receives a response to the first format request [col. 2, lines 17-22; col. 10, lines 5-14].

As per claim 20:

Bakshi further explicitly teaches:

- transmitting at least a second request in accordance with said first format from said client to said server, wherein the server is adapted to maintain an open communication link with the client by keeping at least one of said first format requests outstanding [col. 10, lines 5-15].

As per claim 21:

Bakshi further explicitly teaches:

- maintaining a communication path with the server in accordance with the second format request [col. 10, lines 5-23].

In addition, Lee explicitly teaches:

- A client-server networking system [abstract, col. 10, lines 4-6] comprising:

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- client/server requesting and responding via a network communication processes including sending, acknowledgment, confirming, lost confirming, time out, etc... [fig. 1-5, col. 1, lines 43-53; col. 10, line 8- 48].

As per claim 22:

Bakshi further explicitly teaches:

- the first format is Transmission Control Protocol/Internet Protocol (TCP/IP) formatted communications [col. 1, lines 45-57 and col. 2, lines 52-66].

As per claim 23:

Bakshi further explicitly teaches:

- the second format is the HyperText Transfer Protocol (HTTP) formatted communications [col. 1, lines 45-57 and col. 2, lines 52-66)].

As per claim 24:

Bakshi further explicitly teaches:

- transmitting a request in accordance with a second format from the client to the server, said second format request

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adapted to establish a communication session with said Server [col. 10, lines 5-23].

As per claim 25:

Bakshi further explicitly teaches:

- transmitting at least a second request in accordance with said second format from the client to the server, wherein the server is adapted to maintain an open communication link with the client by keeping at least one said second format request outstanding [col. 10, lines 5-45].

In addition, Lee explicitly teaches:

- A client-server networking system [abstract, col. 10, lines 4-6] comprising:
  - client/server requesting and responding via a network communication processes including sending, acknowledgment, confirming, lost confirming, time out, etc... [fig. 1-5, col. 1, lines 43-53; col. 10, line 8- 48].

As per claim 26:

Bakshi substantially teaches the invention. Bakshi teaches:

- A method for communicating with a server (i.e., client/server communication/computer system) [abstract,

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fig. 4, col. 1, lines 45-57; col. 2, lines 15-30]

comprising:

- transmitting a first request from a client, said first request comprising a plurality of messages (i.e.,

TCP/IP protocols [col. 1, lines 45-57 and col. 2, lines 52-66]) [col. 9, lines 55-60; col. 10, lines 36-40];

- receiving a response from a server, said response including an indication of which of said messages were received from the client [col. 10, lines 5-15];

- transmitting a second request to the server (i.e., HTTP protocols [col. 1, lines 45-57 and col. 2, lines 52-66]) [col. 10, lines 5-14].

Bakshi does not explicitly teach:

- if said response indicates that at least one of said messages was not received from the client, said second request comprising at least one of message from said first request that was not received by said server.

However, Bakshi does disclose capability of:

- A method for communications between two network devices (i.e., clients/servers communications) [fig. 4, col. 1, lines 14-17; col. 2, lines 15-30] comprising:

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- clients/service request/response failure indication [col. 8, lines 25-38].

Lee explicitly teaches:

- A client-server networking system [abstract, col. 10, lines 4-6] comprising:
  - client/server requesting and responding via a network communication processes including sending, acknowledgment, confirming, lost confirming, time out, etc... [fig. 1-5, col. 1, lines 43-53; col. 10, line 8- 48].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention was made to first realizing Bakshi's clients/service request/response failure indication as being if response indicates that at least one of said messages was not received from the client, said second request comprising at least one of message from said first request that was not received by said server as claimed by Applicant. This is because Bakshi explicitly deals with client/servers data requesting/responding via send/acknowledge features in supporting the data security communication between client-server (i.e., bi-directional data communication between client-server system), more specifically,

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in the supporting the data integrity and data protection via authorized access or network access control; second, by client/server requesting and responding via a network communication processes including sending, acknowledgment, confirming, lost confirming, time out, etc... as taught by Lee in conjunction with the method for communications between two network devices (i.e., clients/servers communications) as disclosed by Bakshi, the data requesting and responding including response not received by client capability within the client/server system can enhance its data streaming operation performance, more specifically to ensuring the request defectives thoroughly detected and corrected via reception and control capabilities (i.e., sending and acknowledgment tracking function) for the same reasons set forth in paragraph above.

As per claim 27:

Bakshi further explicitly teaches:

- transmitting a second request further comprises removing (i.e., discarding) the messages received by the server from the client. [col. 2, lines 22-25 and col. 9, lines 62-65].

As per claim 28:

Bakshi further explicitly teaches:

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- storing a plurality of messages at the client; and sending a subsequent request to the server if a predetermined number of additional messages accumulate [col. 3, lines 30-45 and col. 7, line 66 through col. 8, line 5].

As per claim 29:

Bakshi further explicitly teaches:

- re-transmitting said first request from the client if a predetermined period of time passes before said client receives said response from the server [col. 3, lines 47-67].

In addition, Lee explicitly teaches:

- A client-server networking system [abstract, col. 10, lines 4-6] comprising:
  - client/server requesting and responding via a network communication processes including sending, acknowledgment, confirming, lost confirming, time out, etc... [fig. 1-5, col. 1, lines 43-53; col. 10, line 8- 48].
  - re-transmission request, time-out period features used to maintaining data communication [col. 3, lines 49 through col. 4, lines 4; col. 10, lines 4-49].

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As per claim 30:

Bakshi further explicitly teaches:

- receiving a response from a server, said response including an indication of said messages were received from the client; and processing said messages by the server, wherein the server is adapted to maintain an open communication link with the client by keeping at least one of said plurality of messages outstanding [col. 10, lines 5-45].

As per claims 31-32:

These claims are similar to claims 26-28. The only minor different is that claim 31 introduces "receiving at least two requests from clients, said requests comprising a plurality of messages"; however, Bakshi does illustrate this limitation via "a plurality of additional request packets from the first network device (i.e., client) to the second network device (i.e., server)" [col. 10, lines 35-46]. Therefore, these claims are also rejected under the same rationale applied against claims 26-28. In addition, all of the limitations have been noted in the rejection as per claims 26-28.



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**Conclusion**


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. A shortened statutory period for response to this action is set to expired THREE (3) months, ZERO days from the date of this letter. Failure to respond within the period for response will cause the application to be abandoned. 35 U.S.C. 133.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (571) 272-3660. The examiner can normally be reached on Monday - Thursday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The Tech Center 2100 phone number is (571) 272-2100. The Central FAX number is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**DIEU-MINH THAI LE**  
**PRIMARY EXAMINER**  
**ART UNIT 2114**

DML  
9/30/05